

OF THE  
OF THE  
CLARK'S  
In the Court of  
CHANCERY  
AS KNOWN IN CLAYME AND  
PRACTISE.

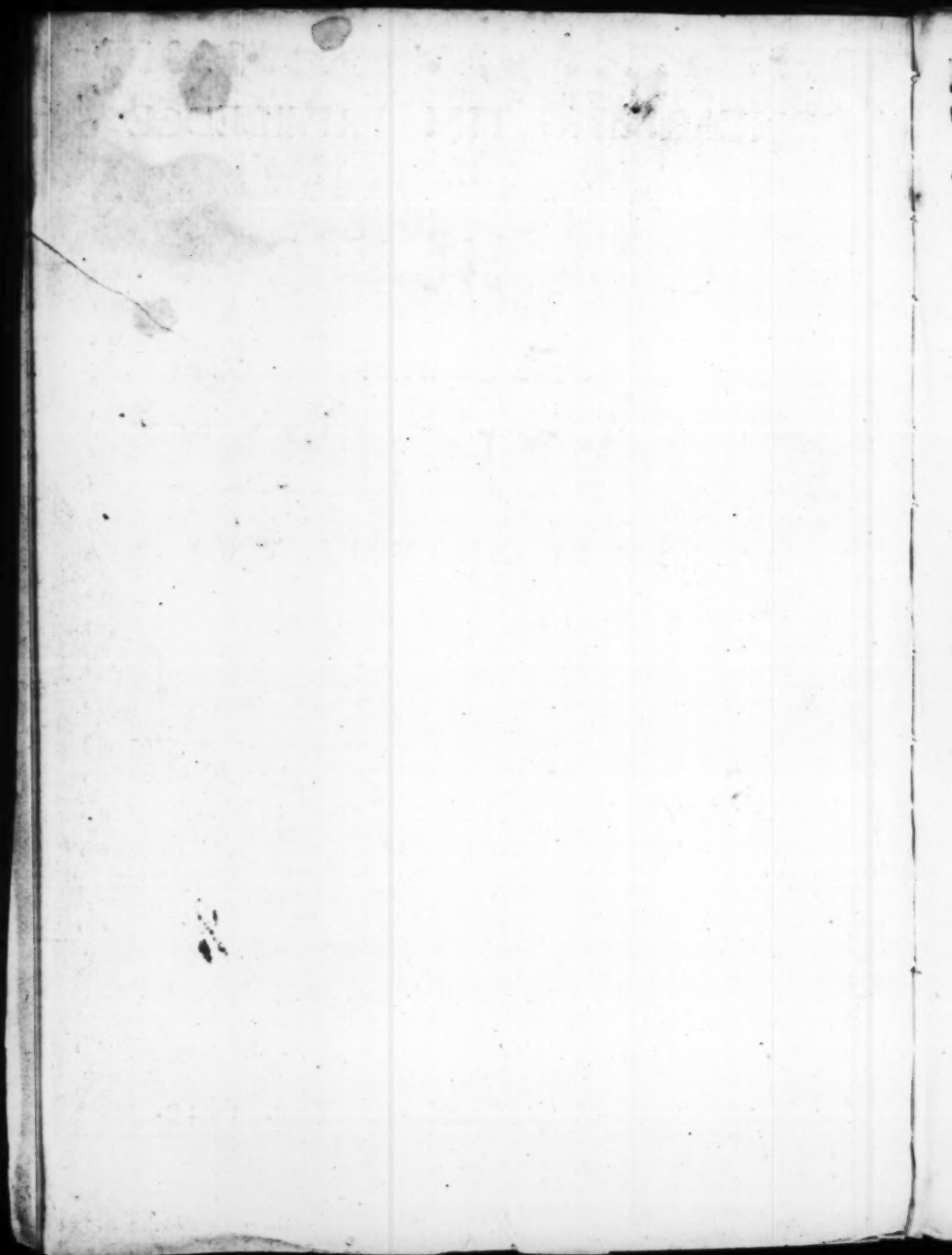


*By John Duke of Worlingham Esq.*



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**Tiranny and Popery discovered, by a  
breife and narative discourse, of the claimed  
priviledge of a fix clarks clarke, alias, a subclarke  
in the Court of Chancery.**

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*And humbly Dedicated to His Excellency the Lord  
Generall FAIRFAX.*

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**I**N time of open hostility for upholding the nationall rights and liberties of the free-borne people of England, against all invasive attempts of prerogative or power ; by fortune ( or rather to my costly misfortune ) I have met with a linbe of tyranny, and popery, as yet lurking in high places of Iudicature, and at this day practised, under a notion of the jurisdiction and priviledges of the courts, to their respective Clarks, insomuch that a sub clarke in the court of Chancery ( in right of such his relation ) claims and enjoys the following advantages.

If he be disposed to contention, he may, at his election, under some equitable pretence, trouble his proposed adversary, by calling him into the said court by writ of *Sub yæna*, and there charging him by any tedious frivolous bill, which personally to appeare to, coppy out, answere, pleade, or demurre to ; together with the expences of his travill, attendance,

dance, and a day of hearing (besides motions, orders, and answers that commonly interpose) the poore defendante is soone run out of 20. or 30. pound to the clarks nothing, in respect of his priviledge; and if then the bill be dismiss with 20. shillings costs against this clark, it may be thought a happy reparation, notwithstanding the drawing up, entering, and copy of this order of dismissal, with the *Suppæna*, and other charges conducing to the recovery of these costs, may possibly come to nineteene shillings of the money.

Or if otherwise this clarke pretends to a legall right, which he enjoyes not, he may take his writ of priviledge out of the Pettibagg Office, and thereby compell the personall appearance of the deffendant, with foure subdy men for speciall bayle to (his *individuum vagum*) his action then after to bee made appeare, albeit the defendant himselfe be responsable for tenfold the value of the clarke, if wholly exposed to sale, and the like for so many severall actions as he shall pretend to. All which being performed, there yet remains a remnant of further charge and servitude: for this clarke may constrain the defendant to attend his pleasure (*a die in diem*) to receive his declaration and plead to it (there being no imparlance against his priviledge) but the clark at liberty not to declare before the third following terme, and thereby put the deffendant to a further charge and attendance.

So that suppose this deffendants abode be 100. or 200 miles distant from *London*, thither he and such his baile must goe with hazard of their healths, neglect of their families, losse in their severall occasions and certaine great expences in their travell and attendance as aforesaid, to the clarks nothing; nor the businesse, when once understood, appearing  
any

any other then like the fabulous issue of the Mountains, which after a great and long expectation of some huge birth, it proves but a ridiculous mouse, some triviall 2 pence matter, or rather a designe of vexation.

Now again admitting this Clerk to be never so injurious to others, in their bodies, goods, or good names (be their case proper for Law or Equity) the Clerk claims it for part of his priviledge, not to be impleaded but in one of the fore-named Courts, where the Plaintiffe will assuredly find the Salve worse then the sore (unlesse it be the greater) for he shall certainly spend his Estate to nothing, and have great fortune if he ever get halfe his costs allowed, nor any Bayle to be put in for security of what he shall recover.

So that this clerk (in right of such his place and priviledge) carries about him (*Armatam Nequitiam*) such desperate destructive advantages, that he may at pleasure exercise an insulting tyrannicall power over others (of what incomparable worth soever) and himselve remaine as carelesse in doing right, as fearlesse of suffering wrong, ever making his priviledge Instrumentall to his malicious and mischeivous purposes in the one case, or the other.

Now how dangerous is it to intrust the pravity of mans nature, with a priviledge so inconsistent with the liberty of the Subject, and so unwarranted by the Law of God and the lawes of the Nation, both which; Impartially look on the Actions of man-kind without respect of persons, whether in administration of reward or punishment; being the two feet on which the Empires of the world march, with honour and safety.

And what lesse could be expected from the late Lord Keeper, *Finch*, and others, the then Judges of the Land, then a compliancy by their utmost skill, and cunning to serve  
their

their Prince in the designs of Ship-mony , and all illegall Monopolies and miscariages, (to the begetting of intestine miserable Warres ) when as yet they continue such high and Papall indulgencies to their Clarks; whereby they give them power to become Devills to honest men ; by destroying them in their livelyhoods, and comforts of life as aforesaid.

And what hath beene here said of *Chancery Clarks*, being above 70. in number, doth in part extend to the Attorneys and Clarks in all the Courts of Record at *Westminster*, for I find it affirmed by divers of them that (*Mutatis Mutandis*) they all lay claime to priviledges by their places, to the cherishing of much vermine in the land, when they incline to contention.

It remaines now to understand how these priviledges be gronnded, whether on Grant from the Crown , or the customary usage and practise of the Courts. If it be answered by Grant ; it is replied (*nihil Dat quod non habet*) nor the Crown, nor the King (when in his Solstice of Majesty ) was ever admitted such a priviledge in his owne case. For if any Subject had cause to capitulate his right with the King by contest in law or equity, (were he Plaintiffe or Detendant ) the King by his Counsell could only make a faire use of those prerogative advantages whch divers Statutes of the Land and the practise of our municipall Lawes had intituled him to, (in speciall Cases) for upholding the rights of the Crown against the cunning and craft of common persons; and that without the least Arbitrary power, or undue and destructive prosecution.

Or if it be answered to be a priviledge, grounded on an ancient & continued practise of the courts; it is then replied (*Malus usus est abolendus* ) nay more, a custome so repugnant



to law, reason, and common right, as this is (in most of the species;) is in it selfe void. For every Native ( in common right ) hath a like and equall portion of birthright in the Lawes of the Nation; and be all alike lew to law. And how preposterous is it to reason, and how horrid to nature, for a superiour to be exposed to mischeife and misery, at the discession of his inferiour fellow subject, by any he-thenish grant or custome, let any men judge.

But to draw to a conclusion ( brevity being the thing intended ) I beleive these priviledges to be of a mixt nature, patched up partly by graunt, and partly by the customary favours of the court, as a boone intended to the clarks, which write to the great Seale, in respect of such their reference and subordination thereto. I also find this graunt and these customary favours to have been very auncient, and to have had their original in time of greatest superstition and blindness, when the six clarks themselves were preists; but as now ( after so many years light of reformation, and in the time of an intended thorough reformation ) to be countenanced in the highest courts of Judgment and Justice, is a wonder to amalement.

Now out upon all relative worship; as being a relique of popery and worst of Jdolatry. Out upon such Jdolizing feeble mortal Majesty, in ascribing such honour & immunities to any scrub clarke that (in way of livelyhood) offers up a little Jnke and Papert to the effigies of its person, and impress of its power.

For according to the latitude of Religion, or reason, in this relative worship, the invocation of Saints (who are constant attendants about the omnipotent Majesty of the immortall God) may be fully justified. And what honour or rather adoration may any peice of wood claime (above the Ce-

(8)  
...the Communion being conveyed and consecrated to a Com-  
munion Table where many waytes on his Maker in com-  
memoration of his Institution and ordinance of Christ in  
the last Supper, as by the mysticall and Divine power of the  
God word, with the Elements of bread and wine there fe-  
rried into our bodies, grace to eternall salvation is con-  
veyed into the Hearts and Soules of all true beleevers.

And by the exemplary power and practise of this  
priviledge the very spirituall beauid of the Nation is in-  
flamed, the peoples being made Drunk with all the Ido-  
clatious innovations of the Church of Rome, which every  
true Christian may see and charge, and I do hereby  
charge it to the Duty, command and commit it to the care  
and consideration of a powerfull hand, in the hands of  
a zealously devoted to God and his Country, who  
shall from time to time the Patronage of the said Office, and  
shall be the Master of the House of Commons, and shall  
be the sole, for such a sacred trust. (In what concerns the  
said Office) shall be most agreeable with the undoubted right  
of the People, and purposes of Parliament and Army.

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